

# ALCALDE & FAY

GOVERNMENT & PUBLIC AFFAIRS CONSULTANTS

May 10, 2011

## MEMORANDUM

**TO:** Chairman Joe A. Martinez  
Board of County Commissioners

**FROM:** Hector Alcalde  
Lois Moore  
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**SUBJECT: March Monthly Report**

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Throughout the month, Congress continued to battle over short-term continuing resolutions (CR) to keep the government operating while Republicans and Democrats debated the approach to longer-term spending cuts. Congress passed an initial CR that expired March 28 and then passed a subsequent CR until April 8. Both CRs included significant reductions in federal funding across agency programs. Congress was in recess from March 18 to March 28. Enclosed please find a list of activities that we monitored during the month of March.

## SEAPORT DEPARTMENT

### *Miami Harbor Dredging Appropriations*

With the Administration's decision not to include funds for the Miami Harbor deep dredge in the FY 2012 budget, the Seaport Department decided to pursue new start funds in the FY 2011 work plan, which the Corps is currently preparing. Our request is two-fold: i) include a nominal amount of funds (\$50,000 or less) within the FY 2011 work plan; and ii) retain the language in the House-passed Continuing Resolution (CR), which authorizes the Corps to fund new start construction projects in FY 2011.

Even with the Governor's announcement to fund the federal share of the project, Army Corps policy requires that there be some nominal measure of federal funds contributed to the project. Therefore, we proceeded to schedule meetings for Port Director Johnson with members of the Florida delegation and other senior members of Congress. On

March 8 and 9, meetings included those with Congressman John Duncan (R-TN), the Chairman of the Highways and Rail Subcommittee and Harry Glenn, the Chief of Staff to Congressman Bill Young (R-FL), the Chairman of the Defense Appropriations Subcommittee. Both committed their total support. Congressman Duncan's staff requested a draft letter, which we provided. Congressman Duncan corresponded with Assistant Secretary of the Army, JoEllen Darcy, in support of each of Mr. Johnson's requests. Miami-Dade County members continued to commit their support and assistance, including Congressman Diaz-Balart, Congresswoman Frederica Wilson, Congressman David Rivera and Congresswoman Ileana Ros-Lehtinen who offered to schedule a delegation meeting with Assistant Secretary Darcy. At this time, we are coordinating the scheduling of that meeting with the Congresswoman's staff.

On March 22 and 23 we scheduled meetings for Director Johnson with officials at the Office of Management and Budget, Army Corps Headquarters and Army Corps Pentagon. We accompanied Director Johnson to the following meetings:

Office of Manage and Budget, March 22

Eugene Ebner, Chief, Water and Power Branch

Nicole Comisky, Program Examiner, Water and Power Branch

Army Corps, Pentagon, March 23

Terrance (Rock) Salt, Principal Deputy Assistant Secretary for Civil Works

LetMon Lee, Deputy Assistant Secretary for Policy and Legislation

Army Corps Headquarters, March 24

Maj. Gen. William T. Grisoli, Deputy Commanding General, South Atlantic Division  
Regional Integration Team

Stacey Brown, Civil Works Deputy, South Atlantic Division Regional Integration Team

Susan Ney, Attorney

At the Corps meetings in March, we were advised that a decision had been made not to require new start funds and that Headquarters would draft an agreement, which would enable the Corps to accept nonfederal funds for the entire federal share of the cost of the deep dredge. At that time, we were also advised that the amendment to the (PED) agreement had been received by Army Corps Pentagon. This amendment would allow the Corps to accept nonfederal funds for completion of the PED (Planning, Engineering and Design) so that the project can remain on schedule. Both agreements will require approval of the House and Senate Appropriations Committees. We will plan follow-up meetings with House and Senate staff of the Energy and Water Development Appropriations subcommittees.

Just as a recap, over the past several months, we have scheduled and accompanied Director Johnson to the following agency and Congressional meetings.

Agency:

- Gary Locke, Secretary, United States Department of Commerce
- Rock Salt, Principal Deputy Assistant Secretary of the Army for Civil Works, Pentagon
- Mr. Gary Loew, Chief, Civil Works, Program Integration Division, Army Corps Headquarters
- Mr. Steve Stockton, Director of Civil Works, Army Corps Headquarters
- Mr. Joel Szabat, Deputy Assistant Secretary, Department of Transportation
- Jane Oates, Assistant Secretary, Department of Labor
- Courtney Gregoire, Director, National Export Initiative, Department of Commerce
- Francisco Sanchez, Under Secretary, International Trade, Department of Commerce
- Sally Ericsson, Associate Director, Natural Resource Programs, Office of Management and Budget (two meetings)
- Ron Kirk, United States Trade Representative
- JoEllen Darcy, Assistant Secretary of the Army for Civil Works, Pentagon

Congressional (In addition to Miami-Dade delegation members):

- Taunja Berquam, Senior Staff, House Energy and Water Development Appropriations Subcommittee;
- Roger Cockrell, Senior Staff, Senate Energy and Water Development Appropriations Subcommittee;
- Jim Zoia, Chief of Staff to the Minority, House Transportation and Infrastructure Committee;
- Matt Dickerson, Legislative Assistant to Congressman Bill Young
- Congressman John Mica, Chair, Transportation and Infrastructure Committee;
- Congresswoman Corrine Brown (D-FL), Ranking Member, Rail Subcommittee;
- Congressman Alcee Hastings (D-FL)

### *Port of Miami Landside Infrastructure Improvements*

On October 19, 2010, the Department of Transportation announced a \$22.7 million grant to the Port of Miami for the proposed Intermodal and Rail Interconnection project at the

Port of Miami. As indicated above, this was one of the largest grant awards under the TIGER II program and only one of seven port grants nationwide. While there was some indication that the Administration was considering withholding some portion of the TIGER funds, we were pleased to learn that the department has obligated all of the funds for the Miami TIGER project.

### *WRDA 2011 and Miami Harbor*

The House Transportation and Infrastructure Committee (T&I) plans to consider WRDA legislation late this year, after moving the FAA and Surface Transportation bills. Notably, Chairman Mica intends to make the surface bill a multi-modal bill and to include a separate Maritime title. As a part of this title, he may include provisions that are traditionally included in WRDA bills. Chairman Mica has indicated his desire to address proposals to allow the full use of the Harbor Maintenance Trust Fund for harbor maintenance needs. He may also address short-sea shipping issues.

The Committee is also expected to address a change in the cost share for deep draft projects (deeper than 45 feet). We will monitor this closely.

While the House leadership will not allow project specific authorizations in House WRDA legislation, as they are defined as “earmarks,” the Chair and Ranking member of the Senate Environment and Public Works (EPW) Committee, Barbara Boxer (D-CA) and James Inhofe (R-OK) plan to include projects within their FY 2011 WRDA legislation. Senators Boxer and Inhofe recently forwarded letters to all Senators, requesting that they submit individual WRDA project requests by April 28. Senator Nelson’s office has requested that all requests be submitted to his office by April 18. We are working with his office to submit all pertinent information on the Seaport Department’s WRDA requests, which are listed below. (Senator Rubio will not make WRDA requests).

- Language which amends the cost sharing formula for construction of channel depths greater than 45 feet.

While current law provides for a local cost share of 60 percent (50 percent plus 10 percent over three years) for depths greater than 45 feet, the proposed amendment will change the depth threshold from 45 to 53 feet. In previous WRDA conferences, the Senate committee has opposed any change in the cost share. Therefore, we will work with the American Association of Port Authorities to generate support for the issue in the Senate. Assuming a

minimum of two years of PED work, a cost share change in WRDA 2011 would be timely to impact the cost sharing on the Phase III construction project.

- Language (report) which clarifies that Sec. 221(4) - Credit for In-Kind Contributions of the 2007 Water Resources Development Act is applicable for “in-kind” work accomplished by the Port during the preparation of the General Reevaluation Report (GRR).

This integral in-kind contribution included research assistance and other planning efforts in consultation with the Army Corps. The amount of the credit is estimated at \$400,000. The requested language reads:

***Miami – Harbor, Miami-Dade County Florida: Credit for In- Kind Contributions***

*Section 221(4) – Credit for In-kind Contributions of the Water Resources Development Act of 2007 shall be applicable for work undertaken by the Port of Miami during the preparation of the General Reevaluation Report (GRR) which resulted in the Report of the Chief of Engineers dated April 25, 2005.*

- Language which federalizes the Dodge Island Cut extension for maintenance dredging.

This is important, should O&M (operation and maintenance) be needed in the future in this area of the Miami Harbor.

***Coast Guard Authorization bill/TWIC and Florida Access Control***

Conferees to the Coast Guard Authorization legislation struck the House-passed provision, which would have essentially eliminated the redundant background checks for Florida port workers. The Senate would not accept the House provision because it was deemed as federal preemption. However, language was included, which directs the Comptroller General to submit a report that: (1) reviews background checks and forms of identification required under State and local transportation security programs; and (2) determine whether the background checks and forms of identification required under such programs duplicate or conflict with Federal programs.

While we are prepared to continue to work to secure comparable language during the current Congress, we understand that pending legislation in the State legislature may preclude the need for federal preemptive legislation. We are monitoring the State legislation closely at this time.

## **WATER AND SEWER DEPARTMENT**

With the moratorium of earmarks in the House and Senate FY 2012 appropriations bills, we will seek alternative sources of funding for the Water and Sewer Department needs. In addition, the upcoming Senate WRDA bill will present an opportunity to secure authorizations for Water and Sewer Department priorities, which are:

**\$6.25 million for the Water Transmission Pipeline authorized in the Water Resources Development Act of 2007.** Congress authorized this reclaimed water pipeline to receive up to \$6.25 million in grant assistance from the Army Corps, pending an appropriation.

**\$5 million for the Pump Station Optimization Program (PSOP).** The PSOP consists of the installation of a program addition to pump station Supervisory Control and Data Acquisition (SCADA) controls for each station. Five million is needed for program upgrades and monitoring well installations, upgrades to pump station control panels and level sensing equipment to allow for increased pressures, which result from increased wastewater elevations during the PSOP operations.

**Authorization of \$30 million for a pipeline to convey reclaimed water to the Florida Power and Light (FPL) complex at Turkey Point.** The \$120 million project would require a nine-mile pipeline from the South District Water Treatment Plant to the FPL complex. The reclaimed water would be used to cool a proposed power plant addition, and to replace cooling water for existing units.

**Authorization of \$1.5 million for a Water Main to convey reclaimed water to Fisher Island and Miami Beach.** The \$3 million project includes the construction of a 20-inch reclaimed water main from the Central District Wastewater Treatment Plant on Virginia Key to Fisher Island and Miami Beach. The reclaimed water, delivered through the 8,300 foot pipeline, would be used for irrigation replacing potable water from the Biscayne Aquifer.

**Increase to \$20 million the authorization for the South Miami Dade Reuse Pipeline.** Section 5158 (128) of the Water Resources Development Act of 2007 included the authorization of \$6.25 million for the \$357 million project to construct new water reuse treatment facilities and pipelines. This request will increase the federal participation level, in this important environmental project, to six percent.

## TRANSPORTATION

### *FY 2011 Transportation Appropriations*

On March 2, 2011, Congress approved yet another continuing resolution (CR) to fund federal programs until March 18, 2011. The CR (H.J.Res. 44) includes federal spending reductions of \$4 billion by eliminating eight programs that President Obama labeled as wasteful in his FY 2012 budget request and eliminating certain earmarks, while continuing most other federal programs at current FY 2010 funding levels. H.J.Res 44 passed the House by a vote of 335 to 91 and the Senate by a vote of 91 to 9. The CR was signed by the President as Public Law No. 112-4. We provided highlights of spending reductions to OIA and the Transit Department, including the following:

#### Program Termination:

Highways - Additional General Fund spending (Federal Highways Administration) = - \$650 million. No funds were requested for this use in the President's budget request. This one-time, non-recurring funding addition was provided in FY 2010 and distributed to all States through the existing, authorized highway formula. Removing these funds will have no impact on the authorized, mandatory side of the highway program and its limitation of obligations.

#### Earmark Terminations-Transportation, Housing and Urban Development:

- \$22 million - HUD Neighborhood Initiatives
- \$173 million - HUD Economic Development Initiative
- \$293 million - Surface Transportation priorities
- \$25 million - Rail Line Relocation

The Senate will continue to work on the House-passed FY 2011 spending bill (H.R. 1) that includes federal spending reductions of \$61.5 billion (\$100 billion less than the budget proposed by President Obama last year).

### *FY 2012 Budget Resolution*

On April 5, 2011, House Budget Committee Chairman Paul Ryan (R-WI), joined by House and Senate Republicans representing various Budget-related Committees, held a press conference to introduce the Fiscal Year (FY) 2012 House Republican Budget Resolution, entitled "The Path to Prosperity". In efforts to reduce the federal deficit by more than \$6 trillion over the next 10 years, the proposed Budget Resolution would

decrease allocations for all transportation programs from \$93 billion in FY 2011 to \$63 billion in FY 2012 (31 percent reduction). The proposal does not specify the source of these reductions but states that “however worthy some highway projects might be, their capacity as job creators has been vastly oversold, as demonstrated by the extravagant but unfulfilled promises that accompanied the 2009 stimulus bill, particularly with regard to high-speed rail.” Consequently, funding for high-speed rail is not included in the Budget Resolution.

It is important to note that the Budget Resolution, which is intended to establish budgetary guidelines for the current fiscal year, is a non-binding proposal that will still need to be reconciled with the yet-to-be-introduced Senate Budget Resolution.

### ***Surface Transportation Reauthorization Bill***

On March 2, 2011, the Surface Transportation Extension Act of 2011 (H.R. 662) was approved by the House by a vote of 421 to 4 and by voice vote of the Senate. The bill was signed into law as Public Law No. 112-005 on March 4, 2011, the date the current extension would have expired. The legislation, which freezes funding at FY 2010 levels for highway, transit and highways safety programs, provides the seventh short-term extension of SAFETEA-LU through September 30, 2011. Although House Transportation and Infrastructure Chairman John Mica (R-FL) had expressed a desire to pass a long-term reauthorization bill prior to the current extension’s deadline, this new extension would provide both the House and Senate enough time to work on drafting a new bill.

Prior to passage, Senate Environment and Public Works (EPW) Chairwoman Barbara Boxer (D-CA) expressed her concern about further delaying the enactment of a long-term authorization bill. During a hearing held on February 16, 2011, Chairwoman Boxer noted that although she would support the House extension, if Congress was unable to enact a long-term bill in the coming months it would create uncertainty at the state level regarding future funding levels, and stated “we cannot afford to send the (wrong) signal to the Governors.”

## **ELECTIONS**

### ***FY 2012 Budget Information***

As in FY2011, the Administration did not request additional funding for Election Reform grants for FY2012.

### **Election Assistance Commission**



	<i>FY2011</i>	<i>FY2012</i>
<i>FY2010 Actual</i>	<i>Administration Request</i>	<i>Administration Request</i>
\$14,000,000	\$16,800,000	\$11,000,000

## OTHER LEGISLATION AND ISSUES OF INTEREST

### *Draft Internet Travel Tax Fairness Act*

In March, a U.S. District Court granted class-action certification in a Rome, GA suit against online travel companies allowing multiple cities and counties suing more than a dozen online travel companies to band together. Also, there was activity in State courts as Oklahoma dismissed the State's case against online travel companies and a California court dismissed the City of Santa Monica's case. However, the District of Columbia and the State of Hawaii announced they are filing suits to collect back taxes from online travel companies.

We continue to monitor the internet hotel tax issue. We are staying in contact with Senator Bill Nelson's (D-FL) staff on the so called "Internet Travel Fairness Act" issue and are pleased to report that the Senator is opposed to the provisions. Recently, we discussed the issue with NACo staff and will continue to monitor tax legislation as it is introduced. In addition, the American Hotel and Lodging Association has begun an effort to publicize the impact that the proposed provisions would have on local jurisdictions. As reported previously, we have communicated the County's position to the Miami-Dade delegation and Senate Leadership.